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Suggestions are summarized in **bold** in the relevant sections.

05-071            DEPARTMENT OF EDUCATION

Chapter 33:      REGULATIONS GOVERNING TIMEOUT ROOMS, THERAPEUTIC  
RESTRAINTS AND AVERSIVES IN PUBLIC SCHOOLS AND APPROVED  
PRIVATE SCHOOLS

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Section 1.        In General

1.1                Policy and Purpose

These regulations establish standards for the use of separate, isolated timeout rooms and the use of therapeutic restraint when the behavior of a student presents a risk of injury or harm to the student or others, significant property damage, or seriously disrupts the educational process and other less intrusive interventions have failed. Nothing in these rules would require an SAU or approved private school to construct or use a timeout room or implement a program of therapeutic restraint. Schools that are licensed as residential child care facilities or mental health treatment centers and governed by other state standards shall comply with the higher standard. Nothing within these rules limit the protections of individual students under applicable special education standards.

- **Identification and description of alternate, less intrusive strategies.**
- **The term “therapeutic restraint” is misleading and inaccurate. Restraints are never therapeutic.**
- **The current terms are misleading. Restraint and seclusion are not therapeutic.**
- **Restraint and timeout should be used exclusively for “imminent danger of serious bodily injury to the student, school personnel, or others,” not for disruption or damage to property.**

- **Implement Positive Behavioral Supports (PBS) and positive, evidenced-based plans and procedures for all students with behaviors that interfere with learning.**
- **If a room is what is meant, than that is the term that should be used** (as opposed to the term *area* that has been suggested by others). **The term *room* is necessary if the student is not to see or hear what is going on in his environment.**
- **My hope is that we remove the oxymoronic term “therapeutic restraint” from this regulation altogether. Many of our students have been unsuccessful in private, special purpose schools where restraint is used. We have developed a highly effective, three-tiered approach to behavior management without the use of physical restraints and/or isolation rooms. Physical restraint and timeout rooms makes it difficult for students to develop the internal locus of control that is necessary for them to develop a personal sense of responsibility .**

## 1.2 Local Policy Required

Each School Administrative Unit and each approved private school shall develop local policies and procedures relating to the use of timeout rooms and therapeutic restraint prior to initiating such interventions in their schools. School Administrative Units and approved private schools which have local policies and / or permit the use of timeout rooms and / or therapeutic restraint shall revise existing policies or develop policies consistent with these rules within 90 calendar days of the effective date of these rules. These policies and procedures shall be developed with input, as needed, from representatives of related disciplines such as special education, psychology, school psychology, social work and / or counseling. SAUs and approved private schools shall establish a process to review, at least annually, the use of timeout rooms and therapeutic restraint and to make recommendations as necessary to the governing body for changes in local policy.

## 1.3 Documentation

Each use of a timeout room and / or therapeutic restraint shall be documented. The documentation shall include at a minimum, the date and time of initiation, the time of termination, the student, the location, the antecedent events prior to the behavioral episode, the behavior that resulted in the use of timeout and / or therapeutic restraint, the type of intervention, and the staff person(s) involved in the use of timeout and / or therapeutic restraint. This documentation shall be written as soon as practical after the incident and provided to the program administrator or designee within 2 school days of the incident. The program administrator or designee shall inform the parents or guardians of the use of timeout or therapeutic restraint as soon thereafter as practical.

- **Documentation should specify whether the staff person implementing the seclusion or restraint is trained/certified as required by the rules.**

- **Parents must be informed the day of the incident, otherwise district must document attempts to reach them.**
- **There should be a standard documentation form used by all schools, such as the form used by MSE/MHC The Collaborative School.**
- **Who reviews these documents outside of the school to see what trends or problems are occurring in a particular district? A standardized form and oversight by an outside entity would help get the students and teachers the support they need and curtail expensive out of district placements.**

## Section 2. Definitions

### 2.1 Timeout

Removal to a timeout room is a therapeutic intervention to bring the behavior of a student presenting a risk of injury or harm to self or others or significant property damage under control. The purpose of the use of timeout rooms is to reduce the frequency and intensity of harmful behaviors, to permit the student to regain his or her composure and to assist the student to return to the learning environment. Timeout includes requiring a student to leave the classroom, playground, or other educational setting and go to a designated timeout room for a period of time specified in these rules and local policy. For purposes of these rules, timeout is limited to a designated timeout room. The term does not include disciplinary actions imposed by a school administrator or teacher / staff imposed behavior interventions. Examples of disciplinary actions imposed by a school administrator include, but are not limited to, detention and "in school suspension." Examples of teacher / staff imposed behavior interventions include, but are not limited to, requesting a student to sit in a "quiet chair" within the classroom, directing a student to put his / her head on their desk, sending a student to the principal's office, etc. These exclusions may not be used to circumvent the intent of these rules.

- **Restraint and seclusion must not be used as punishment, as a response to property destruction, disruption, refusal to follow school rules, or verbal threats that do not constitute imminent danger to self or others.**

### 2.2 Timeout Room

A time out room is a designated space, separate from a student's classroom, which is used to isolate a student from his or her peers and school activities. All timeout rooms will meet the standards specified in these rules.

- **There should be no distinction made between a designated and a non-designated space. Sections 2.1 and 2.2 should apply to any space in which seclusion occurs.**
- **The door may not be locked, but may be temporarily held closed with a device that requires the staff person to hold it in place and to see and hear the child at all times.**

- **Staff must be able to visually and audibly monitor the child at all times. Occasional checks not acceptable.**
- **Could the timeout designated space still be in the classroom? The regulations do not make this clear.**

### 2.3 Therapeutic restraint

Therapeutic restraint is the use of a therapeutic physical intervention with a student by an appropriately trained staff person to prevent injury or harm to the student or others. Title 20-A, §4009 permits staff to use a reasonable degree of force to intervene and control emergency situations. Nothing in these regulations applies to any conduct by a school official that would otherwise be covered by the legal protections of 20-A MRSA §4009.

- **Current definitions are confusing and inconsistent. The definitions used in the federal Childrens' Health Act of 2000 should be used. *Physical restraint* is “a personal restriction that immobilizes or reduces the ability of an individual to move the individual’s arms, legs, body, or head freely. Such term does not include a physical escort.” *Seclusion* is “a behavioral control technique in which a student is involuntarily confined to a room or area from which the student is physically prevented from leaving.”**
- **Use of restraint limited to emergency cases in which imminent danger to child or others and no other safe, effective intervention is possible.**
- **Restraints must only be used by trained staff under rigorous supervision and must cease as soon as the emergency ends.**
- **Prohibit any restraint that interfere with breathing or ability to communicate, e.g. prone restraints (with student face down on stomach), supine restraints (with student face up on back), or any maneuver that places pressure or weight on the chest, lungs, sternum, diaphragm, back, neck, or throat.**
- **Whenever multiple applications of restraint/seclusion occur, or are likely to occur, require that a meeting be held with relevant school staff, a mental health provider and the family to determine if referral to 504 or special education is appropriate.**
- **The regulations must carefully define physical restraint, so as not to include early and light touching. If all such preliminary interventions are counted as a full hold, staff will be fearful of violating the regulations by touching the student in any manner.**
- **Prone restraint or restraint that restricts a child’s breathing should not be allowed. Such restraint is not therapeutic but is physically and psychologically damaging.**

## Section 3. Time Out Room

### 3.1 Limitations on the use of timeout room

Timeout rooms shall be used consistent with local policy to reduce dangerous behaviors and only after less intrusive interventions have failed. Timeout rooms may be used for either an emergency intervention or as part of an intervention

plan. Local policy will determine when a pattern of the use of timeout rooms requires referral to the appropriate intervention team and / or the development of an individualized intervention plan. Parents or guardians shall be involved in the development of any individualized intervention plans. Timeout rooms shall not be used for punitive purposes, staff convenience or to control minor misbehavior.

- **Prohibit the use of seclusion except in emergency cases, defined as when a child must be physically separated from others because of an imminent risk of danger to an individual or others, and when it has been documented that no other safe, effective intervention is possible.**
- **Prohibit the inclusion of restraint and seclusion in a student's individual education plan (IEP) and/or behavior intervention plan (BIP).**

### 3.2 Time limitations on the use of timeout rooms

Use of timeout rooms shall be limited in duration to that time necessary to allow the student to compose him/herself and return to the classroom. The use of timeout shall be consistent with local policy and the student's individualized intervention plan but may not exceed one hour. If a student is still presenting dangerous behaviors after this period the use of timeout may be continued with written authorization of the program administrator or designee.

- **Time limits for seclusion and restraint continue to be necessary to provide guidance to school staff.**
- **If a child is secluded for more than 15 minutes, principal or designee must personally observe the child and note any reason for continued seclusion in a log maintained for that purpose. These observations must be renewed every 15 minutes until the student is released from seclusion. The family must be immediately notified of any seclusion exceeding 15 minutes.**
- **The regulations must clarify when seclusion ends. Is it only when the student returns to the educational environment? What if a therapist goes into the room and conducts an interview for 15 minutes?**
- **Child must be released from seclusion the moment the emergency ends.**

### 3.3 Adult supervision

Students in a timeout room shall be directly observed at all times by a staff person.

- **The staff person should not be interacting with the secluded student, just observing. Interacting with the student may reinforce the behaviors.**
- **Having a staff person in the room with the student is not seclusion within the meaning of the regulation.**

### 3.4 Physical Characteristics

Timeout rooms will be a minimum of 60 square feet with adequate light, heat, and ventilation and of normal room height. The door to the timeout room may not be locked, latched or secured in any way that would prevent the student from exiting the room. An unbreakable observation window shall be located in a wall or door to permit continuous observation of the student and any staff member in the timeout room.

- **Weekly inspections** (suggested by others) **are not necessary. Administration should be responsible for maintaining a safe environment, period.**
- **A sound system should be required in the room, to align with a requirement in 3.3.**
- **Regarding not locked or latched: Student in a rage will try to escape, which would be dangerous for himself and others. A preferred arrangement would be secure containment for a strictly defined period, say 15 minutes, during which parents and/or emergency personnel could be called to deal with the situation safely.**

## Section 4. Therapeutic restraint

### 4.1 Permitted uses of therapeutic restraint

Appropriately trained staff may physically intervene with a student to prevent injury or harm to the student or others. Therapeutic restraint may be used for either an emergency intervention or as part of an intervention plan. The intervention shall occur only after less intrusive efforts to control the behavior have been attempted. The intervention shall involve the least amount of physical contact necessary, shall be implemented consistent with the standards of a training program as specified in §4.5 and consistent with local policy. The use of therapeutic restraint shall require the presence of at least two adults at all times. Title 20-A, §4009 permits a single individual to use a reasonable degree of force in emergency situations to control or remove the student.

- **Restraint and seclusion are not treatment and have no place in an IEP.**
- **Regarding the use of less intrusive measures: Some situations escalate so rapidly that the use of less intrusive measures would likely lead to injury of someone. An individual written intervention plan should be permitted to control the details of the use of restraint in non-emergency situations.**

#### 4.2 Time limits on the use of therapeutic restraint

Use of therapeutic restraint shall be limited in duration consistent with local policy and the student's individualized intervention plan but may not exceed one hour. If a student is still presenting dangerous behaviors after this time period, the use of therapeutic restraint may be continued with written authorization of the program administrator or designee.

- **The use of EMS personnel should trigger a call to parents whenever possible.**

#### 4.3 Exclusions

Protective equipment or devices that are part of a treatment plan prescribed by a physician or psychologist for treatment of a chronic condition are not prohibited by these regulations.

#### 4.4 Mechanical or Chemical Restraints Prohibited

The term "therapeutic restraint" does not include mechanical or chemical restraints used to control or modify a student's behavior. Chemical restraints include but are not limited to medication, noxious sprays or gases. Prescribed medication administered by a health care provider consistent with a student's health care plan are permitted. Mechanical restraints are prohibited.

- **It should be made clear that in order to for a school resource officer to be exempted from these rules, he or she must be employed by a police department.**

#### 4.5 Training

Except as provided by Title 20-A, §4009, individuals who implement or supervise the implementation of therapeutic restraint shall have successfully completed an appropriate training program in the identification and de-escalation of potentially harmful behaviors and the safe use of passive physical therapeutic restraints. This training includes, but is not limited to, Non-Abusive Psychological and Physical Intervention (NAPPI), Mandt, Crisis Prevention Institute, Therapeutic Crisis Intervention Training, and other training as determined appropriate by local policy.

- **Identification of appropriate training resources.**
- **Develop standards for training in restraint use, prevention, and reduction. Training within the first month of each school year in emergency and crisis prevention, de-escalation, and debriefing procedures. Training must focus on following areas: 1) early warning signs of mental illness and crisis intervention for students with mental illness; 2) positive behavioral supports and interventions; 3) communicative intent of behaviors; 4) relationship building; 5) alternatives to restrictive procedures and events and environmental factors that may escalate behaviors; 6) de-escalation methods; 7) obtaining emergency medical assistance; 8) the physiological and psychological impact of restraints and seclusions; 8) skills that students need to better regulate and manage their behaviors.**
- **What constitutes adequate training? Do all staff need to participate, or can one person attend and “train” the other staff members? If the latter is true, will the one trained staff member teach holds only and not the first three quarters of the training that focused on recognizing escalating behaviors and using de-escalation techniques? Will substitute teachers be trained? Is the school-wide policy that permits restraint in emergency situations a way to get around the need to adequately train staff?**

## Section 5. Aversives

### 5.1 Use of Aversive Therapy or Treatment Prohibited

A school administrative unit or an approved private school may not use aversive therapy or treatment in order to modify or change a student's behavior. Aversive therapy or treatment includes the application of unusual, noxious or potential hazardous substances, stimuli or procedures to a student. Such substances, stimuli and procedures include but are not limited to: water spray, hitting, pinching, slapping, noxious fumes, extreme physical exercise, costumes or signs.

Other:

- **Need a monitoring system to assure districts are following the regulations and parents are being notified consistent with the regulations.**
- **Should include a mandated process for addressing the underlying cause of the behaviors, to include: 1) an FBA by a competent third party; 2) home-school plan of action; 3) behavioral plan based on positive behavioral supports, written by a trained person; 4) team-based approach to include non-school personnel; 5) periodic review of data; 6) parental engagement/approval at all levels and steps.**
- **Appropriate staffing patterns and training prerequisites where challenging behaviors are likely to occur.**



- **Should include a complaint process with clear, transparent procedures.**
- **Data collection: LEA's should be required to report the total number of incidents of restraint and seclusion, as well as the total number of restraints by untrained individuals and the total number resulting in injury or death.**
- **It should be clear that all public schools are covered by Chapter 33, including private schools receiving public funds for tuition. Chapter 33 should clearly cover substitute teachers, school volunteers, tutors, contractors (including transportation), and school functions.**
- **Regulations must clarify the circumstances under which a nurse must evaluate a student who has been restrained or secluded. Parents should be able to request that such an evaluation be included in the child's health care plan.**
- **MUSER should be amended to add the use of restraint and seclusion as a trigger for child find.**
- **DOE must clarify the roles of the following agencies/entities with regard to Chapter 33 compliance monitoring; School Approval; Special Services; Certification; DHHS Office of Child and Family Services.**